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MEMORANDUM FOR: Daniel B. Silver
General Counsel

FROM: Thomas H. White
Director of Information Services, DDA

SUBJECT: Comments on Revised Draft of E.O. 12065

DD/A REGISTRY
FILE: legal

Attached are our suggested changes to the 28 April revised draft of E.O. 12065. The suggested changes are keyed to the pertinent subsections and page numbers of your draft.

There is one major change which should be made. I feel very strongly that our proposal should recommend that the requirement for systematic review for declassification be eliminated, or at least be made discretionary. We have been working for over 2 years to generate support throughout the Executive branch for the elimination of systematic review. We have been quite successful at this. As a matter of fact, we have convinced some agencies to recommend its abolition even though they are not all that concerned from a parochial viewpoint. GAO has recommended this. ISOO and NARS are prepared to accept this, as are some people on the NSC staff. For us to go forward with anything less than elimination at this point would be terribly embarrassing to ourselves and to those whom we've convinced to support us on this matter. Your proposal could of course be a fallback position.

I would be happy to accompany you to the interagency working group meeting on 1 May, if it would be helpful.



Thomas H. White

Attachment

STAT DDA/OIS/RMD/RSB [redacted] kw (30 April 1981)

Distribution:

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Subsection 1-3, page 9, (1-301 (g))

The use of the elastic category of information should be authorized by "a senior agency official" rather than all original classification authorities as proposed. We feel some form of control over the use of this category is necessary and the inclusion of a senior agency official would satisfy this need. Such a requirement would also make this change more palatable. We agree the reporting requirement to ISOO should be deleted.

Subsection 1-3, page 13, (1-303)

The proposed revision should be amended to include intelligence activities as well as intelligence methods.

Subsection 1-4, page 14, (1-402)

Changes to this subsection are dependent upon what the final outcome will be as regards a systematic declassification review program. This section becomes unnecessary if the systematic review requirement is eliminated. In any event, thirty years is not a realistic time frame in which to review intelligence information, particularly information received from or concerning sources.

Subsection 3-4, page 37, (3-403.(a))

For the reasons stated in the covering memorandum forwarding these suggested changes, the requirement for a systematic review program should be eliminated or at the very least be left to the discretion of agency heads. However, if the systematic declassification review program

proposed in the draft is adopted, we suggest deleting the need for an official with Top Secret classification authority to exempt certain classified information from automatic and systematic declassification review. Since most Agency information would be exempt, it would impose an unacceptable burden on senior agency officials to whom we restrict Top Secret classification authority. The proposed revision should be amended to read as follows:

"Officials with original classification authority may exempt from the above automatic and 30-year systematic declassification provisions the level of classified information or material originated by him or under his supervision if it falls within one of the categories described below."

Subsection 4-4, page 48, (4-404)

This paragraph should be limited to Top Secret documents only. The amended revision would delete all after "Top Secret documents." to "Procedures governing...". The inventorying of all secret and confidential documents with special dissemination and reproduction limitations is an impossible task and adds little to the security of the information. The number of documents which carry designators like NOFORN, ORCON, NO CONTRACTOR, etc., are so numerous that the cost of inventorying and follow-up is prohibitive. In addition we are unaware of any agency that follows this procedure as required.